



TOWN OF RIDGEFIELD

Planning and Zoning Commission

APPROVED/REVISED MINUTES PLANNING AND ZONING COMMISSION Zoom Webinar Meeting Public Hearing

These minutes are a general summary of the meeting and are not a verbatim transcription.

September 22, 2020 Present: Susan Consentino
Joseph Dowdell
Joseph Fossi
George Hanlon
Robert Hendrick
John Katz
Rebecca Mucchetti, Chair
Ben Nneji
Charles Robbins, Vice Chair

Also Present: Richard Baldelli, Director, Planning and Zoning, ZEO
Thomas Beecher, Commission Counsel
Karen Martin, Assistant Town Planner
Eileen White, Recording Secretary

Call to Order

Chair Mucchetti called the Meeting to Order at 7:00 p.m. via Zoom Webinar. She gave an overview of the Agenda and the aspects of Zoom Webinar procedures. The Chair gave instructions for viewing with the Gallery option, an option that had not been accessible to some viewers at the last Zoom Webinar. Also, the Chair stated that the Town IT Department says that there is not enough storage capacity for both the video and audio transmissions of the Meetings, so only the audio transmissions will be available for those who request a copy.

Mr. Fossi motioned, Mr. Katz seconded, to Raise to the Agenda a discussion about Town e-mail addresses for the Planning and Zoning Commissioners so that Commission e-mails are separate from personal and business e-mails. Motion carried 9-0.

Commissioners Consentino and Hanlon were recused from the 104 West Mountain Road application and left the Webinar at: 7:05 p.m.

Discussions

1. #2020-021-RESUB: -An application for 2-lot Re-Subdivision of land under Section 7.5 of the Ridgefield Subdivision regulations for a property consisting of 12.3045 acres located at **104**



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West Mountain Road in the RAA Zone. *Statutorily received on May 26, 2020. Site walked on June 07, 2020. Owner/Applicant: Michael & Jennifer Kriedburg. Authorized Agent: Donnelly, McNamara & Gustafson, P.C.*

There was no need to re-read the Legal Notice, as it had been read at the September 8, 2020 Public Hearing.

Commission Counsel Beecher answered questions posed by the Commissioners at the September 8, 2020 Public Hearing by explaining the legal history of the property and the Adverse Possession Claim brought forth by the Consentinos. The legal history included the February 2019 decision of the Planning & Zoning Commission to allow the request for a re-subdivision of Lot 66R into two parcels which then allowed the Applicant to go to the Court to amend the 1969 Stipulated Judgement with deed restrictions on each of the two newly created lots that would then make future re-subdivisions very difficult.

Attorney Beecher stated that an Adverse Possession Claim has a higher bar of proof because in the State of Connecticut it requires at least a 15-year use without interruption and without permission of the landowner. Attorney Beecher also stated that an Adverse Possession Claim should not impact this Application. Mr. Beecher said that the Commissioners had a legal duty to review the Application as presented under the Regulations and under the assumption that the Kriedburg's own all of the property, until a judge says otherwise.

The Chair stated that Attorney Jewell, after the September 8, 2020 Public Hearing, submitted into the Record: the case of *Muscowitz v. Planning and Zoning Commission* as well as *Property Group v Planning and Zoning Commission*; and the e-mail from Project Engineer Michael Mazzucco referred at the September 8, 2020 Public Hearing. The Chair also stated that two e-mails with attachments from Attorney Jackie Kaufman have been entered into the Record which reference the 2009 pre-submission discussion and the Notice of Decision.

Questions from Commissioners Hendrick and Katz included how the original Stipulation of Judgement could have been amended in the first place in 2019, whether the current Stipulation of Judgement could be amended and whether the two residences on the property were two residences. Attorney Beecher said that any legal decision could be re-opened and amended. Chair Mucchetti, stated that the 2019 Commission decision to re-open the Stipulation of Judgement with restrictions was based on the re-subdivision being consistent with existing regulations and that the size of the lots as well as the wet/dry ratio of land would prevent further re-subdivision.

Attorney Jewell stated that he would not go through the Regulations again, as they pertain to the Application, as per the September 8, 2020 Public Hearing. Mr. Jewell said he could not speak to the 2019 decision first-hand, nor is he representing the Applicant in the Adverse Possession Claim lawsuit.



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Mr. Jewell stated that he is submitting into the Record his response to the e-mail he received before the Meeting about the Certificate of Title. Attorney Jewell stated that, although there was not a lis pendens on the Land Records in May 2020, when he submitted this Application, there is one now. Mr. Jewell has now submitted a revised Certificate of Title.

Attorney Jewell addressed the issue of Private Open Space not being sacrosanct brought up by Commissioner Katz by citing the three ways Private Open Space is conveyed, as cited at the last Public Hearing. Mr. Jewell read into the Record the Regulation about Open Space.

Attorney Jewell stated that the Applicant would prefer that the Open Space would be owned by Lot 66B because of the dam. Mr. Jewell stated that the Open Space was intended for fishing and ice skating.

Mr. Baldelli asked if the Open Space Regulations say that the Open Space has to be owned by both of the "lots". Mr. Jewell read Section 4-24, Subsection 3 into the Record and stated that he believes the Regulations do not specifically say this, but the Applicant is asking that one of the Lot owners own the Open Space. Mr. Beecher stated that he interpreted the section to mean that the Open Space should be owned by "lots." Mr. Jewell responded that the Applicant would then draft the Agreement to include both lots and that this would be Active Open Space.

Mr. Jewell stated that due to the configurations of the Open Space being conveyed and the lot shapes being proposed, it would be difficult to re-subdivide the lots.

In response to public comment, Mr. Jewell also stated that his September 8 reference to "improvements," referred to improvements to the real property.

The Chair asked Counsel Beecher if the Commission should continue to take questions and comments regarding the Adverse Possession Suit. Mr. Beecher answered that during the Public Hearing the Chair had authority if the thread of the Meeting went too far afield, and he hoped that his earlier comments had been heard about the Adverse Possession Claim not affecting this Application.

Attorney Jackie Kaufman, representing the Consentinos, stated that there were deficiencies to this Application as they pertain to the Subdivision Regulations. Ms. Kaufman read into the Record the letter she submitted after business hours today, initially paraphrasing the letter into two points: deficiencies in the title to the property, and offering a solution to the Open Space question by relocating it. Ms. Kaufman stated that, at a minimum, the Title is not free of encumbrances. Thus, the lis pendens, Ms. Kaufman said, should not allow for a transfer of property until the legal action is resolved.



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Attorney Kaufman also stated that the Kriedburgs could not claim entire ownership of the property. Ms. Kaufman cited that the recordings of the Meetings pertaining to the Resubdivision proposal were on file with the Town and that the Minutes of the Meetings were not a comprehensive record of these Meetings.

Attorney Kaufman said that a solution to the aforementioned Adverse Possession issues could be made with the relocation of the Open Space.

Commissioner Katz asked Attorney Beecher if he understood there was a cloud on the Title to the property. Mr. Beecher stated that a lis pendens was not a cloud hanging over the Commission as to their decision on this Application.

Commissioner Hendrick asked Attorney Kaufman if there was a particular reference in Connecticut statutes that requires the Applicant to demonstrate that the property is free of encumbrances. Ms. Kaufman cited Section 6.6 of the Subdivision Regulations as the reference. The Chair read into the Record Section 6.6.f of Ridgefield's Regulations.

Attorney Jewell stated that it is his understanding that the only time a Certificate of Title is submitted is for a Subdivision Application because of the receipt of land that may go to the Town. Mr. Jewell also re-stated where each proposed lot was in terms of each zone and how difficult it would be for a re-subdivision of each lot.

Under public comment, Ms. Sandra Consentino stated that she and her family were upset that Mr. Jewell had referred to the Consentinos as thieves, given Mr. Consentino's contributions to the Town.

Commissioner Katz asked Attorney Beecher whether the property should in part be ruled via those conditions of the Stipulated Judgement. Attorney Beecher stated that was the case, in his legal opinion.

In his closing remarks, Attorney Jewell apologized if his comments were taken by the Consentinos in the wrong way. Mr. Jewell had meant to convey that an Adverse Possession Claim was an unfair concept. Mr. Jewell restated that all the Regulations had been met for this Application.

Mr. Baldelli stated that he received an e-mail from Ms. Kaufman saying that she had not been able to rejoin the Webinar. Ms. Kaufman was, in fact, still present to the Meeting. Ms. Kaufman stated that she thought Adverse Possession was a legal principle and not unfair.

The Public Hearing closed at: 8:25 p.m.



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Hearing no further discussion, the Chair adjourned the Meeting at: 8:25 p.m.

Respectfully submitted,

Eileen White



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APPROVED/REVISED MINUTES PLANNING AND ZONING COMMISSION Zoom Webinar Meeting

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Robert Hendrick
John Katz
Rebecca Mucchetti, Chair
Ben Nneji
Charles Robbins, Vice Chair

Also Present: Richard Baldelli, Director, Planning and Zoning, ZEO
Thomas Beecher, Commission Counsel
Karen Martin, Assistant Town Planner
Eileen White, Recording Secretary

Call to Order

Chair Mucchetti called the Meeting to Order at 8:25 p.m. via Zoom Webinar

Discussions:

1. IF PUBLIC HEARING IS CLOSED: #2020-021-RESUB: -An application for 2-lot Re-Subdivision of land under Section 7.5 of the Ridgefield Subdivision regulations for a property consisting of 12.3045 acres located at **104 West Mountain Road** in the RAA Zone. *Statutorily received on May 26, 2020. Site walked on June 07, 2020. Owner/Applicant: Michael & Jennifer Kriedburg. Authorized Agent: Donnelly, McNamara & Gustafson, P.C.*

Mr. Katz motioned, Mr. Fossi seconded, to approve as submitted. Motion carried 4-3. Effective Date: September 24, 2020. Ms. Consentino and Mr. Hanlon were recused.

Mr. Fossi left the Webinar at: 9:06 p.m.

Mr. Beecher left the Webinar at: 9:06 p.m.



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Mr. Baldelli notified Commissioners Consentino and Hanlon to rejoin the Webinar via e-mail. Mr. Nneji notified Ms. Consentino via text to rejoin the Webinar. Ms. Consentino rejoined at: 9:10 p.m. Mr. Hanlon rejoined at: 9:11 p.m.

2. Paper reduction Amendment- Discussion. % Staff

Ms. Martin reported that the Staff Initiated Amendment to the Regulations is in response to an intention to reduce paper waste for both the Planning and Zoning Commission and the Planning and Zoning Department. Ms. Martin also stated that there is a move throughout various Town Departments towards having all records in digital form. An updated version of View Permit Cloud is being implemented that will include a search feature for the public for all Commission Applications.

Ms. Martin sent three separate word documents to the Commissioners proposing edits to Sections 7, 9 and 10 of the Regulations to reflect this change with minimal paper copies being allowed for the Planning and Zoning Department.

The Chair stated that nothing would be decided this evening to allow for additional time to review the proposed edits to the Regulations.

Mr. Katz motioned, Mr. Robbins seconded, Mr. Fossi was absent, to Schedule a Public Hearing for October 27, 2020. Motion carried 8-0.

3. Town E-mails for Planning and Zoning Commissioners

The consensus was to proceed with having separate Town of Ridgefield e-mail addresses for each Commissioner to separate Commission work from personal and professional work.

New Submissions

None.

Correspondence

None.

Approval of Minutes:

- **PZC meeting- September 08, 2020** (Emailed on September 16, 2020)

Mr. Robbins motioned, Mr. Hendrick seconded, to approve as amended. Motion carried 8-0.

Adjourn

2020-9-22



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Hearing no further discussion, the Chair adjourned the Meeting at: 9:22 p.m.

Respectfully submitted,

Eileen White